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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,241	06/23/2006	Shuya Kishimoto	040373-0392	1477
23428 7590 03/17/2009 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
TRAN, PABLO N				
ART UNIT		PAPER NUMBER		
2618				
MAIL DATE		DELIVERY MODE		
03/17/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/584,241

Applicant(s)

KISHIMOTO ET AL.

Examiner

Pablo N. Tran

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 6-8, 10, 11, 17-19, 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 12-16 is/are rejected.
- 7) ☒ Claim(s) 9 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5 and 12-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Lakkis (US Pat No 6,694,131).

As per claims 1-2, 12, and 14, Lakkis disclosed a radio communications apparatus for simultaneously transmitting a local oscillation signal used when an intermediate frequency band signal is converted to a radio frequency band signal by a mixer unit, wherein a modulation scheme changing control step for changing a modulation scheme in accordance with the quality communication and a step for controlling an output power of the local oscillation signal in accordance with the quality of communication (see fig. 3, fig. 7, col. 2/ln. 41-col. 3/ln. 24, col. 4/ln. 57-col. 7/ln. 15).

As per claims 3 and 13, Lakkis disclosed a bit error rate (see fig. 3/no. 346).

As per claims 4 and 15, Lakkis disclosed the mixer unit can control an output power of the local oscillation signal under the control of the control means (see fig. 3, fig. 7, and col. 2/ln. 41-col. 3/ln. 24, and col. 4/ln. 57-col. 7/ln. 15).

As per claims 5 and 16, Lakkis disclosed said mixer unit has two mixers (see fig.3/no. 312, 314) each supplied with the intermediate frequency band signal and the local oscillation signal for delivering the radio frequency band signal and the local oscillation signal; and a combiner (see fig. 3/no. 330) for combining the radio frequency band signals and the local oscillation signals supplied from said two mixers, respectively, wherein said control means controls the phases of the local oscillation signals delivered from said two mixers (see fig. 3, fig. 7, col. 2/ln. 41-col. 3/ln. 24, col. 4/ln. 57-col. 7/ln. 15).

Allowable Subject Matter

3. Claims 9 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (571)272-7898. The examiner normal hours are 9:30 -5:00 (Monday-Friday). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can

be reached at (571)272-7899. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) System. Status information for Published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-directauspto.gov>. Should You have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (in USA or CANADA) or 571-272-1000.

March 15, 2009

/Pablo N Tran/

Primary Examiner, Art Unit 2618